

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ALABAMA  
NORTHERN DIVISION**

<b>UNITED STATES OF AMERICA</b>	)	
	)	
<b>vs.</b>	)	<b>CRIM. ACT. NO. 2:22-cr-224-TFM</b>
	)	
<b>JAMARIS JONTUAN HOGAN</b>	)	
	)	

**ORDER**

Pending before the Court is Defendant's motion for leave to file an out-of-time appeal. *See* Doc. 59. In the case at hand, the judgment was entered on December 19, 2023. *See* Doc. 57. Defendant filed his appeal on January 3, 2024. *See* Doc. 60.

Fed. R. App. P. 4(b) provides that in a criminal case a defendant's notice of appeal must be filed within 14 days of the entry of the judgment. Fed R. App. P. 26(a)(1) states that for calculating the deadline, the day of the judgment is excluded, but one counts every day including intermediate Saturdays, Sundays, and legal holidays while including the last day of the period. If the last day occurs on a Saturday, Sunday, or legal holiday, then the period continues to run to the next open business day. In the case at hand, using those rules, the appellate deadline ran on January 2, 2024. Therefore, the appeal is technically untimely.

However, under Fed. R. App. P. 4(b)(4), upon a finding of excusable neglect or good cause, the district court may extend the time for filing a notice of appeal for a period not to exceed 30 days from expiration of the appeal period.

Counsel was on leave starting on December 19, 2023 for the holiday season and did not receive notice of the judgment until her return on January 3, 2024. The Court wholeheartedly believes that it is important that lawyers, like others, should spend time with family and friends for the holidays. Counsel's time off benefits not only her, but her clients. The period just happened

to coincide precisely with the holiday season. The Court finds that Defense counsel's request is reasonable and establishes good cause for the short extension.<sup>1</sup> Therefore, the motion for leave to file a one-day late appeal (Doc. 59) is **GRANTED**.

**DONE** and **ORDERED** this 10th day of January 2024.

/s/ Terry F. Moorner  
TERRY F. MOORER  
UNITED STATES DISTRICT JUDGE

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<sup>1</sup> The Court need not make a finding of excusable neglect because there was no neglect. Rather, the Court finds that defense counsel is consistently diligent about deadlines and the timing on this case just unfortunately coincided with the holiday season and her previously scheduled leave. The Court hopes that counsel enjoyed her leave and took a well-deserved break.